

REMARKS

By the foregoing amendments in the claims, Applicant's attorney acknowledges the withdrawal of apparatus Claims 16-32 and 35-38 as which have now been cancelled. The Examiner's withdrawal of elected Claim 33 is acknowledged, but is discussed further below. Method Claims 1-15 and 34 have been amended. New method Claims 42-48 have been added as dependent claims to elected method Claim 34. A complete listing of claims is provided herein.

With regard to the Examiner's withdrawal of Claim 33, Applicants' attorney notes that the elected Claim 1 is generic to that claim. Therefore, Applicants' attorney respectfully requests that Claim 33 be rejoined to Claim 1 and examined on the merits, if Claim 1 is found to be allowable.

Turning to the Office Action, Applicants' attorney first acknowledges the Examiner's objection to the abstract, and includes an Abstract herein.

Turning to the claim rejections, the Examiner has rejected Claims 1-15 and 34 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,981,983 to Rosenblatt et al. ("the Rosenblatt Patent"). Applicants respectfully traverse this rejection for the reasons discussed herein.

All of the rejected method claims (i.e., Claims 1-15 and 34), of which Claims 1 and 12 are independent claims, are directed to a surgical procedure for repairing a damaged vaginal wall. Claim 1 recites the following steps: (a) mobilizing the vaginal epithelium off of the underlying fascia of the damaged wall; (b) positioning a reinforcing material over the exposed fascia; (c) re-fixing the vaginal epithelium over the reinforcing material and the fascia; and (d) locating an intra-vaginal splint into the vagina such that the splint supports the vaginal wall and prevents substantial movement and displacement of the reinforcing material. In the method of

Claim 12, the surgical procedure of steps (a)-(c) of Claim 1 are performed on the anterior and posterior vaginal walls, followed by location of the intra-vaginal splint as in step (d).

Claims 1 and 12 can be differentiated over the teachings of the Rosenblatt Patent on at least two grounds. First, although the Rosenblatt Patent discusses surgical procedures generally, it does not describe any particular surgical procedure that involves the steps (a)-(c) discussed above. More specifically, the Rosenblatt Patent does not teach steps of mobilizing an epithelium off of underlying tissues, positioning a reinforcing material over the exposed tissues, then re-fixing the mobilized tissue over the reinforcing material. Further, the thrust of the Rosenblatt Patent is to provide fixation devices (e.g., abstract and Col. 3, lines 41-62) for use in alternatives to procedures that require such "traumatic" surgery (e.g., Col. 3, lines 17-36). More specifically, the Rosenblatt Patent is directed to fixation devices for fastening intact anatomic structures to each other, and, thus, teaches away from the so-called "traumatic" methods of Claims 1 and 12.

Another ground for differentiating independent Claims 1 and 12 over the Rosenblatt Patent arises from the use of an intra-vaginal splint in the aforementioned step (d). The Examiner identifies Fig. 25D of the Rosenblatt Patent as a disclosure of such a splint. However, the text running from Col. 19, line 45 through Col. 21, line 28 explains that Figs. 25A-25D illustrate a template for guiding placement of devices for affixing soft tissue to supporting structures and to diagnose anatomical irregularities responsible for pelvic floor defects. There is no indication that the template is intended to remain in place for any significant period of time. In contrast, the intra-vaginal splint of the present application is located so as to support the vaginal wall and prevent movement and displacement of the reinforcing material while the re-fixed vaginal epithelium heals (page 7, lines 28-32 and page 14, lines 5-10 of the present application).

For the reasons given above, Applicants believe that independent Claims 1 and 12 are not anticipated by the disclosures of the Rosenblatt Patent, and, therefore, should be allowed. Further, Claims 2-11, 13-15 and 34 should be allowed because they depend from allowable claims. Therefore, Applicants respectfully request reconsideration and allowance of the aforementioned claims. Applicants also respectfully request that Claim 33 be examined and allowed because it depends from Claim 1, which is allowable and generic to Claim 33.

Applicant's attorney believes that no fees are due with this Amendment. If any such fees are due, including any petition fees or fees for extending the time for response, the Examiner is authorized to charge any deficiency to Deposit Account No. 501561.

If any issues remain that affect the patentability of the amended claims, or if new issues arise from the submittal of this Amendment, Applicant's attorney invites the Examiner to contact him by telephone at the number listed below.

Respectfully submitted,


GREENBERG TRAURIG, LLP
By: Ralph W. Selitto, Jr.
Reg. No. 26,996

Greenberg Traurig, LLP
200 Park Avenue
Florham Park, New Jersey 07932
973-443-3550 (Direct Dial)
973-295-1309 (Direct Fax)
selittor@gtlaw.com